

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

IN RE: ANDREA N. MATKOVIC,
Debtor

Case No. 04-13723
Chapter 7
Judge JoAnn C. Stevenson

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND ENTRY OF
ORDER WAIVING THE PROVISION OF FRBP 4001(A)(3)**

Howard J. LaDuke, Jr., by his attorneys, UAW-GM Legal Services Plan, for his motion for relief from the automatic stay provisions of the federal Bankruptcy Code, states:

1. Howard J. LaDuke, Jr. holds a mortgage on real property owned by Debtor which is located at 2376 Wieman Road, Beaverton, Michigan (hereafter property) (Exhibit A)

2. LaDuke obtained the mortgage on the property during a real estate transaction with Debtor in which he did not understand the paperwork and believed he was only refinancing his home.

3. Mortgage Electronic Registration Systems, Inc.(hereafter MERS) also holds a mortgage on the same property described above.

4. On December 31,2004, with regard to the property, this Honorable Court issued an Order granting MERS relief from the automatic stay and waiving the provision of FRBP4001(a)(3).(Exhibit B)

5. Howard J. LaDuke, Jr. has filed an action against the Debtor and several other parties in the State of Michigan 55th Circuit Court, Case No. 05-1905-CH with regard to the property and other claims. (Exhibit C)

6. In addition to claims against the Debtor, numerous parties and issues are involved

in the state court action regarding this property.

7. Pursuant to 11 U.S.C. 362(d)(1), upon request of a party in interest, the court shall grant relief from stay for cause, including lack of adequate protection of such party in interest.

8. LaDuke is not adequately protected as MERS has obtained relief from stay and is attempting to foreclose on the property in the state courts. Because of the numerous parties and state law issues, LaDuke's claims against Debtor and the property would be better handled in the state courts.

9. Pursuant to 11 U.S.C. 362(f), upon request of a party in interest, the court, with or without a hearing, shall grant such relief from the stay provided under subsection (a) of this section as is necessary to prevent irreparable damage to the interest of an entity in property.

10. That pursuant to Local Bankruptcy Rule 9013(c)(1)(B), attached is a copy of the proposed order Granting Relief from the Automatic Stay Labeled as Exhibit D.

WHEREFORE, Movant respectfully requests that the Court enter an Order Granting Relief from the Automatic Stay for good cause shown pursuant to 11 U.S.C. 362(d)(1), and that the Order is effective immediately upon entry by this Court

notwithstanding the provision of FRBP 4001(a)(3) and whatever relief the Court deems just and equitable.

UAW-GM LEGAL SERVICES PLAN
Attorneys for Howard LaDuke, Jr.

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Dated: April 18, 2005